



Comptroller General
of the United States

1144242

Washington, D.C. 20548

Decision

Matter of: J.T. Systems, Inc.

File: B-255464

Date: February 24, 1994

Jit Turakhia for the protester.
Timothy A. Beyland and Martin F. McAlwee, Esq., Department
of the Air Force, for the agency.
Henry J. Gorczycki, Esq., and James A. Spangenberg, Esq.,
Office of the General Counsel, GAO, participated in the
preparation of the decision.

DIGEST

Agency properly rejected a bid as nonresponsive where it failed to include the required descriptive literature to show the offered pump would comply with the precisely stated mounting and connection requirement.

DECISION

J.T. Systems, Inc. protests the award to Nagley Pump Equipment Company under invitation for bids (IFB) No. F08650-93-B-0051, issued by the Department of the Air Force for a vertical turbine saltwater pump for a desalinization plant on Ascension Island. J.T. Systems protests that the Air Force improperly rejected its bid as nonresponsive.

We deny the protest.

The IFB, as amended, listed 12 requirements with which offered pumps were required to comply and identified 2 pumps, 1 manufactured by Johnston Pump Company and 1 manufactured by Goulds Pumps, Inc., that it believed met the listed requirements.¹

¹The Air Force originally believed that only the Johnston pump would meet its particular requirements and sought alternate sources in a Commerce Business Daily (CBD) synopsis. J.T. Systems responded to the CBD synopsis with a technical data package on the Goulds pump, which the Air Force found acceptable and identified as such in the IFB. (As noted below, J.T. Systems' bid in fact offered a different pump.) In its protest, J.T. Systems alleges that
(continued...)

The IFB required that descriptive literature be submitted with bids and included the "Descriptive Literature" clause at Federal Acquisition Regulation (FAR) § 52.214-21, which stated;

"(c) The failure of descriptive literature to show that the product offered conforms to the requirements of this solicitation will require rejection of the bid."

This clause also expressly required bidders to provide dimensional drawings of the pump and did not allow for bidders to submit such data after bid opening.

The Air Force received 15 bids by bid opening on August 3, 1993. The eight lowest priced bids, ranging from \$32,195 to \$47,485, did not offer either of the pumps identified as acceptable in the IFB. J.T. Systems' seventh low bid offered a Crane-Deming pump for \$47,180. The ninth lowest bid of Nagley offered the Johnston pump for \$48,496 and was the lowest bid to be found responsive. The Air Force found all of the lower priced bids, including J.T. Systems' bid, to be nonresponsive because their enclosed descriptive literature failed to show compliance with 1 or more of the 12 listed requirements. On October 5, the Air Force awarded the contract to Nagley. This protest followed.

Where, as here, an IFB requires descriptive literature to establish the offered product's conformance with specified IFB requirements, a bid accompanied by descriptive literature that fails to clearly show such conformance must be rejected as nonresponsive. National Window, Inc., B-251959, Apr. 16, 1993, 93-1 CPD ¶ 328; Maintenance and Repair, B-251223, Mar. 19, 1993, 93-1 CPD ¶ 247.

The agency rejected J.T. Systems' bid because its enclosed descriptive literature failed to show compliance with the 12 listed requirements. The primary requirement with which the agency was concerned states:

"Mounting and connections must be identical to the existing Johnston Pump Model 10DC-13 stage turbine pump, serial numbers JZ-17046-47 and TC-1865. A sketch of the existing pump is provided . . . for

¹(...continued)

this was a de facto sole source for a Johnston pump because no other pump would meet the agency's requirements. However, since the Goulds pump was pre-approved as an acceptable alternative to the Johnston pump, this allegation clearly is without merit.

reference purposes only in determining mounting and connection."

The sketch of the pump showed that the Johnston pump had a circular baseplate mounting flange with a 19-inch diameter with 5/8 inch bolt holes on a 17-inch diameter bolt circle.

The descriptive literature on the Crane-Deming pump in J.T. Systems' bid showed a square baseplate mounting flange and did not provide the dimensions of the mounting flange or bolt locations. The Air Force determined, and our review confirms, that J.T. Systems' bid was nonresponsive because it did not have the same circular mounting flange as specified on the sketch, nor could the agency determine that the dimensions of the flange on the proposed pump would permit mounting without alterations to the existing mounting fixtures. Notwithstanding that the mounting dimensions of any offered pump were required "to be identical to" the mounting dimensions of the existing Johnston pump, J.T. Systems' comments on the agency report essentially confirm that the offered Crane-Deming pump did not meet the precise dimension requirements with regard to the mounting holes. While J.T. Systems argues that this requirement is immaterial because the existing fixtures can be altered at a relatively minimal cost to allow the Crane-Deming pump to fit, the record confirms that the mounting and connection requirement is material to the Air Force because this fixture must also be able to accommodate a backup pump.²

²The Ascension Island desalinization plant provides the only source of fresh water for this remote island. The plant had operated for a number of years with two pumps purchased from Johnston. The pumps were installed side-by-side and, until approximately 3 years ago, operated on alternate days in order to prolong the pumps' operating lives. One of the pumps has become unreliable so the Air Force is now operating one pump continuously, using the unreliable pump as an emergency back-up. After operating in this way over recent years, the Air Force initiated this acquisition to return to the previous practice of rotating pumps on a daily basis so as to extend their reliability and useful life. In doing so, the Air Force intends to retain the back-up Johnston pump as a spare to be reinstalled in place of the new pump in the event of operational failure of the new pump. Therefore, the new pump must have the exact mounting configuration of the existing Johnston pump to permit interchangeability of pumps without altering the current mounting fixtures.

Therefore, J.T. Systems' bid, which did not provide sufficient information to show compliance with the precisely stated mounting and connection requirement, was properly rejected as nonresponsive.

The protest is denied.

Christine S. Aulenz
for Robert P. Murphy
Acting General Counsel